IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 571 OF 2005

IN

APPEAL UNDER ARBITRATION ACT NO. 2 OF 1994

M/S J.L. BAPTISTA ....Applicant

Versus

STATE OF GOA ....Respondent

Shri C.Mascarenhas,Avocate for the Applicants.

Shri S. S. Kantak, AG with Ms. R. Chodankar, AGA for the Respondents.

Coram:- V.C.DAGA &
N. A. BRITTO, JJ.

Date:- 31st July, 2006

P.C.

Heard the rival parties.

2. The applicant/original respondents seeking directions to the registry to return the original Bank Guarantee so as to enable the respondent to return it to the Bank. The original respondent has produced a letter written by the Bank dated 14.10.2001, addressed to the Addl. Registrar of this Court, seeking to inform him that as per the terms of the Bank Guarantee, the Bank Guarantee had expired on 18.09.2001 and the Bank had cancelled the same. Bank, therefore, had requested the Addl. Registrar to return the original Bank Guarantee. Since the Addl. Registrar of this Court did not return the Bank Guarantee, the present application came to be moved.

3. Learned Advocate General appearing on behalf of the State

submits that the SLP against Judgment and Order of this Court is pending before the Supreme Court. By an ad-interin Order dated 02.11.2001, the Apex Court has directed that the amount deposited by the petitioner shall remain invested as ordered by the High Court. The Order directing investment by this Court relates to part of the amount and that amount has already been invested and the investment is still alive.

4. In our view, the Order of the Apex Court dated 02.11.2001, does not embrace the Bank Guarantee. The Bank Guarantee has already been cancelled prior to the Order of the Apex Court. In the above view of the matter, it is not possible to accept the submission advanced on behalf of the State. Prayer made needs to be granted.

5. Registry is directed to return the Bank Guarantee to the applicant within four weeks from today as no useful purpose would be served by retaining cancelled Bank Guarantee.

MCA is accordingly allowed. No order as to costs.

V.C.DAGA, J.

N. A. BRITTO, J.

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